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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,481	07/11/2003	Tony Hollingsworth	UNMC.63188	8213

110 7590 11/19/2007  
DANN, DORFMAN, HERRELL & SKILLMAN  
1601 MARKET STREET  
SUITE 2400  
PHILADELPHIA, PA 19103-2307

EXAMINER
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YU, MISOOK

ART UNIT	PAPER NUMBER
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1642

MAIL DATE	DELIVERY MODE
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11/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/618,481	<b>Applicant(s)</b> HOLLINGSWORTH ET AL.	
	<b>Examiner</b> MISOOK YU	<b>Art Unit</b> 1642	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2007 and 05 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1, 2 and 4-6 is/are pending in the application.  
4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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The Examiner of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Examiner Misook Yu.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of species SEQ ID NO: 47 in the reply filed on 09/05/2007 is acknowledged. The traversal is on the ground(s) that there would be no serious burden on the examiner because SEQ ID NO: 1 has been already searched. This is not found persuasive because the prosecution history indicates SEQ ID NO: 1 is anticipated by prior art and searching fragments of a known polypeptide put a serious search burden. There are over 50 different species recited in claim 1, and searching them all would put a serious burden. Since they are peptides, up to 10 different SEQ ID Nos would be searched and examined.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC 102***

Claims 1 and 3 remain rejected and new claims 4-6 are under 35 USC 10(b) as being anticipated by WO 02/058450.

Applicants argue that applicants disclose MUCI peptides for eliciting an immune response to MUCI-expressing tumor cells. These peptides are 9 to 15 amino acids in length and are set forth in Tables 3-4 and in the paragraph bridging pages 17 and 18. The prior art references neither teach nor suggest the peptides of the present invention.

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Applicant's arguments have been considered but have not been found to be persuasive because applicant argues with limitation not present in the claims. The preferred embodiment of the claimed invention, i.e. SEQ ID NO: 47 consists of 30 amino acids, not 9-15 amino acids, and the art of record teaches such polypeptide. Note the sequence alignment. If applicant desires to exclude the longer prior art sequences, then claims should be drafted accordingly.

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Query Match          100.0%; Score 179; DB 5; Length 43;
Best Local Similarity 100.0%; Pred. No. 8.2e-20;
Matches 30; Conservative 0; Mismatches 0; Indels 0; Gaps 0;

Qy      1 CQCRRKNYGQLDIFPARDTYHPMSEYPTYH 30
        |||||
Db      1 CQCRRKNYGQLDIFPARDTYHPMSEYPTYH 30

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Claims 1 and 3 remain rejected and claims 4-6 are under 35 USC 10(b) as being anticipated by US Patent 6,548,643, for the reasons set forth previously in the Paper mailed March 17, 2006, Section 7, pages 4-5 for the same reason given above.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISOOK YU whose telephone number is 571-272-0839. The examiner can normally be reached on 8 A.M. to 5:30 P.M., every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shanon Foley can be reached on 571-272-0898. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MISOOK YU  
Primary Examiner  
Art Unit 1642

/Misook Yu/